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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Federal Trade Commission,

10 Plaintiff,

11 v.

12 James D Noland, Jr., et al.,

13 Defendants.
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No. CV-20-00047-PHX-DWL

ORDER

15 Pending before the Court is the Receiver's fifth motion for fees and costs. (Doc.
16 304). James and Lina Noland, Scott Harris, and Thomas Sacca (together, the "Individual
17 Defendants") have filed an opposition (Doc. 314) and the Receiver has filed a reply (Doc.
18 316). For the following reasons, the motion is granted.

19 This is not the first time the Individual Defendants have disputed the Receiver's
20 entitlement to fees. (Docs. 146, 185.) Similar to what has been argued before, the
21 Individual Defendants assert that the Receiver should not be awarded any fees because her
22 fees are not reasonable and "have resulted in no particular benefit to the receivership
23 entities." (Doc. 314 at 1-2.) In particular, the Individual Defendants take issue with the
24 Receiver's use of over eighty percent of her counsel's time "responding to the Individual
25 Defendants' appeal of this Court's orders denying their request to modify or resolve the
26 preliminary injunction and their request to have counsel of their choice." (*Id.*) This
27 objection lacks merit. It was reasonable for the Receiver to prepare and file her own
28 response to the Individual Defendants' appeal because the appeal directly challenged her

1 authority and conduct—and, in turn, threatened to undermine her ability to carry out her
 2 responsibilities under the receivership order. It was also reasonable for the Receiver to
 3 respond to the Individual Defendants’ requests to stay these proceedings and to terminate
 4 the Nevada office lease and to engage an outside consulting firm to assist with accounting,
 5 forensic accounting, and operational matters at a discounted rate.

6 Further, having carefully reviewed the Receiver’s billing entries and having
 7 carefully considered the factors specified in *In re San Vicente Medical Partners, Ltd.*, 962
 8 F.2d 1402 (9th Cir. 1992), the Court is satisfied that the Receiver’s and consulting firm’s
 9 fees—which are based on a discounted hourly rate—are reasonable and not excessive or
 10 extravagant, particularly given the challenging nature of her work in this case.

11 Accordingly, **IT IS ORDERED** that the Receiver’s fifth motion for fees and costs
 12 (Doc. 304) is **granted**.

13 **IT IS FURTHER ORDERED** that the Receiver is hereby authorized and directed
 14 to pay from the receivership assets in this case and in the possession of the Receiver:

15 (1) The amount of \$4,995.00 to the Receiver for services rendered during the
 16 period November 1, 2020 through January 31, 2021, with an additional \$3,330.00 approved
 17 but held back for payment until the conclusion of the case;

18 (2) The amount of \$18,656.97 to Osborn Maledon, P.A. for services rendered
 19 during the period November 1, 2020, through January 31, 2021, with an additional
 20 \$12,437.98 approved but held back for payment until the conclusion of the case; and

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Dated this 19th day of April, 2021.

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